

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10305 of 2023

Appellant :- Pahar Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Bhagwan Das

Counsel for Respondent :- G.A., Shailendra Singh

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Mr. Shailendra Singh, learned counsel for the first informant, learned AGA for the State and perused the material placed on record.

The present criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant to set aside the impugned order dated 19.09.2023, whereby the Special Judge, The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities Act, 1989)/Additional District and Sessions Judge, Lalitpur has rejected the bail application of the appellant moved by him in Case Crime No. 66 of 2022, under Section 376 I.P.C. and Section 3(2) (v) S.C./S.T. Act, Police Station Saujana, District Lalitpur.

General allegations leveled against the appellant that he has committed rape with the informant on 1.8.2023 at about 08:30 P.M. . On raising alarm, her brother-in-law (Devar) came at the spot to save her.

It is submitted that appellant is innocent and has been falsely implicated in this case. The place of occurrence as mentioned in the F.I.R. was a land of forest department and while in the statement recorded under Section 161 Cr.P.C., victim has stated that she was at her field at the time of the incident with her husband. In the site plan, different place of occurrences were mentioned. It is also submitted that no injury was noted on the person of the victim which can corroborate the version of the F.I.R. It is a case of malicious prosecution under the provisions of S.C./S.T. Act. Appellant is languishing in jail since 03.08.2023 having no criminal history. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the

Sessions court and vehemently opposed the prayer for grant of bail to the appellant and argued that the victim in her statements recorded under Sections 161 & 164 Cr.P.C. has consistently corroborated the version of the F.I.R. and has stated that appellant committed rape with her. The eye-witnesses namely, Neelu and Mukesh have also corroborated the version of the F.I.R. and they have stated that appellant was present at the time of the incident on the place of occurrence but anyhow he managed to escape on the place of occurrence.

It appears from the arguments advanced by the counsel for the parties and from perusal of material on record that the court below has properly considered the case of the appellant. Hence, in view of above consideration, the order of rejection of bail passed by the court below dated 19.09.2023 is affirmed.

Having considered the submissions of the parties noted above, finding no force in the submissions made by the learned counsel for the appellant; without expressing any opinion on the merits of the case, the Court is of the opinion that the appellant is not entitled to be enlarged on bail and the appeal deserves to be dismissed.

The criminal appeal is **dismissed**.

The trial court is directed to record the statements of the victim within a period of three months from the date of production of certified copy of this order before it subject to full cooperation of the appellant.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance with law, if there is no other legal impediment.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

Order Date :- 2.11.2023

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